

Environmental Assessment

Yakima River Site Conversion (partial)

A conversion of 9.04 acres of land protected under Section 6(f)3 of the Land and Water Conservation Fund Act, Public Law 108-198

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Washington Recreation and Conservation Office

For:
The National Park Service

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SUMMARY

The Washington Department of Fish and Wildlife (“WDFW”) proposes to remove federal protection from the 9.04-acre portion of its Yakima River Canyon site located on the east side of the Yakima River in Kittitas County in order to resolve a boundary dispute with the adjacent landowner. WDFW’s proposed land exchange would avoid the cost and uncertainty of litigation over the boundary dispute. WDFW proposes to mitigate this impact with the acquisition of three replacement properties. These three properties include: (a) 26.05 acres of the adjacent parcel on the west side of the Yakima River; (b) a 3.19-acre parcel upstream from the original site on the Yakima River at Highway 10 near Thorp in Kittitas County; and, (c) an 83.84-acre parcel with ponds and wetlands near Mesa in Franklin County. The converted property and the three replacements are shown in Figures 1 -5.

This action is needed to avoid an adverse possession claim by the adjacent landowner. It has the additional benefits of re-positioning WDFW’s public access opportunities from 9 acres at one site to 113 acres at 3 sites, all of which are far superior sites from a public recreation standpoint.

In addition to the proposed action, WDFW also evaluated the following alternatives:

- (1) resolving the boundary dispute in court;
- (2) selling only the disputed area to the adjacent landowner; and,
- (3) finding one local replacement property instead of three.

Based on the effects of the alternatives, WDFW is requesting that the Recreation and Conservation Office (RCO) forward a recommendation to the National Park Service (NPS) to approve the proposed conversion and replacement.

INTRODUCTION

In 1968, WDFW received an LWCF grant for the acquisition of a strip of land 225-feet wide, of approximately 12 acres (originally described as 11.05 acres) in the Yakima River Canyon, thereby protecting it for public outdoor recreation under section 6(f)3 of the LWCF Act.

Section 6(f)3 requires that protected parkland that is converted to a use other than public outdoor recreation be replaced with property that is of at least equal fair market value and equivalent recreation utility as the property that was converted. The replacement property must constitute a viable recreation unit, or be acquired as an addition to an existing recreation unit. Development of the replacement property is not required in this case because the recreational utility lost at the conversion site is open space with dispersed recreation and the replacement properties will replace this in-kind.

The currently-protected portion of the Yakima River Canyon site lies on both sides of the Yakima River. Figure 1 shows the portion east of the river, which is the portion to be converted. Figure 2 shows the new park, which includes the original ownership west of the river plus 26.05 acres of adjacent replacement property. This puts the whole LWCF park on the west side of the river. The two additional replacement properties are shown in Figures 3 and 4. Photos of all three replacement properties are shown in Figure 5.

Purpose, Need and Background

The purpose of this project is to remove federal protection from 9.04 acres of the Yakima River Canyon site in order to resolve a boundary dispute with the adjacent landowner who is encroaching on WDFW's land under a claim of adverse possession. If successful in court, the adjacent landowner would be granted the land by court order. Instead, WDFW has proposed a voluntary land exchange that provides superior public access opportunity and avoids litigation.

The Yakima River Canyon is famous for its fly-fishing opportunity. Until 1963, the property of WDFW and the property of the adjacent landowner were owned as one 80-acre parcel by George Martin. The parcel straddled the river, which runs north/south here. In 1963, Martin bisected his parcel into north and south parcels and sold the southern and larger parcel (69 acres) to a fly-fishing company.

Martin retained, for a while, an 11-acre strip of land along the northern line of his former parcel. This strip he sold to WDFW's predecessor, the Department of Game, in 1968. The understanding was that WDFW's parcel was undeveloped. The line between the two properties was mapped as just north of two buildings. The buildings have been used by the fly-fishing company and its successors-in-interest since 1963.

However, a recent survey shows that these two buildings are actually on WDFW's property. In order to avoid litigation over the question of ownership, WDFW proposed a land exchange that would re-divide Martin's original 80 acres into east and west parcels.

Ownership of everything west of the river is extremely attractive to WDFW because it removes one of the last private inholdings located within thousands of acres of state land that stretch to the north, south and west to form WDFW's Wenas Wildlife Area, a 1970 LWCF acquisition.

With this as the starting point for a land exchange, the properties were appraised and found to be vastly different in value. The 9.04-acre portion of WDFW's parcel that is proposed for the exchange was appraised at \$404,000. The 26-acre proposed replacement was appraised at \$10,400. An additional two properties are required to meet the fair market value criterion.

This Environmental Assessment is required to help the National Park Service evaluate the environmental consequences of the proposed action on the human environment and allow the affected public to understand the context for the proposed action.

Description of Alternatives

- No Action

Under the No Action alternative, WDFW would need to resolve the matter in court. The adjacent landowner has alleged facts that, if proven, would give title to the central portion of WDFW's property to the adjacent landowner. If WDFW were to lose the property in court, an LWCF conversion would be triggered but no funds would be generated for replacement land as required under LWCF rules.

- Proposed Alternative

This proposal is to exchange land with the adjacent landowner. WDFW would retain the portion on the west side of the river which fits within the Wenas Wildlife Area. As part of the wildlife area, the parcel provides hunting and wildlife viewing opportunities for the public.

9-acre conversion site: The 9.04-acre portion of WDFW's parcel on the east side of the river would be deeded to the fly fishing company. The loss in recreational utility to the public is minimal because of the lack of developed facilities, but the site has value as open space. The fishermen and boaters (rafts and kayaks) that fish and float the river prefer the seven other public access sites nearby that have restrooms, parking areas, and launches. (Three of these are WDFW sites; four are federal campgrounds.) Public involvement to date has included notice to nearby landowners, notice in the local newspaper, a public notice and comment period, specific notice to potentially interested Tribes, an open public forum at a Washington Fish and Wildlife Commission meeting, and an open public forum at a meeting of the Washington Recreation and Conservation Funding Board. There have been no adverse comments.

26-acre replacement in the Canyon: This 26.05 parcel is the fly-fishing company's property on the west side of the Yakima River, immediately adjacent to the portion of the WDFW's property that WDFW will retain for public recreation. In the exchange, it would be deeded to WDFW. It is a portion of a knoll with lowlands along the river.

3-acre replacement on the Yakima River near Thorp: This 3.19-acre parcel is adjacent to State Highway 10 near Thorp, which is in the upper portion of the Yakima River, north of Interstate 90. This upper portion of the river is popular for fishing, rafting, and canoes, but lacks a public site to exit the river before it runs over a dam. The dam is a serious hazard and has caused injuries and at least one fatality in recent times. For years, WDFW has had a site four miles

upstream from the dam, but rafters and other boaters still attempt to float that last four-mile stretch. This new site is less than one-half mile upstream from the dam and will provide a safe exit for the public who use the river. The site has level parking areas and low-bank access to the river. It has more than 1,600 feet of river frontage, a seven-fold improvement over the 225 feet at the conversion site.

83-acre replacement site at Mesa Ponds: This 83.84-acre parcel is located on Sheffield Road near the town of Mesa in central Franklin County. The site includes Bus Stop Pond, Beaver Pond, and Subway Pond which will provide public opportunity for fishing, duck hunting, canoeing, kayaking, and wildlife watching. It is an important addition to the public recreational opportunities in Franklin County for smaller boats because it provides sheltered water that can be reached by car. Other sites in the county have one of two problems: either they require hiking a distance and carrying gear, which make car-top boats unusable, or they are on the Columbia River which is “big” water and high winds. This site fits a specific niche for people who have small watercraft and those looking for fishing opportunity. Fishing here includes bass, crappie, perch and bluegill. The site is 25 miles north of the Tri-Cities in Benton County and a shorter distance from Othello in Adams County. It is located one mile from Highway 395, which is the main route between the Tri-Cities and Spokane.

According to *The Open Space Coalition of Benton and Franklin Counties*, “It is unusual to find a property with this much diversity [wetland, riparian, and shrub-steppe] and it needs to be protected from development in our rapidly growing area. Franklin County is one of the fastest growing counties in the nation. The expansion of the corrections center in Connell will bring several hundred additional families to the area. This will put all the more pressure on special land. There is a rare opportunity here to make a diverse habitat easily available to young families and to all who love the outdoors for generations to come.”

- **Other Alternatives**

WDFW evaluated the alternative of resolving the boundary dispute at the Yakima River site in court. But the risk of loss of the central portion of the property was deemed to be too great, especially since a court can only decide ownership; if WDFW lost, the court would not provide replacement funds. WDFW decided to design a land exchange would end the boundary dispute while still guaranteeing public access to recreational opportunities. Fortunately, the chosen alternative increases the number of sites, the acreage, and the riverfront footage, and the recreational utility.

WDFW also evaluated the alternative of converting fewer acres, essentially “splitting” the site with the adjacent landowner. This alternative would have made the remaining site not viable for public recreation because the river access would be gone. It also would not have generated enough funds to purchase as much replacement property.

WDFW also evaluated the alternative of purchasing all replacement property within the Yakima River Canyon. WDFW approached all private owners with river access in the area. No private owner was willing to sell. Since most of this stretch of the river is already in public ownership with numerous campgrounds and boat launches, WDFW concluded that local replacement was not viable or preferred.

Affected Environment and Environmental Impacts

A. ENVIRONMENTAL RESOURCES

1. Geological Resources. The 9.04-acre Yakima River conversion site was not purchased for any particular geological resources, other than proximity to the Yakima River for recreational fishing and boating. The river is not within the parcel. The westerly end of the site is gradually sloped along the river, while the easterly end on the far side of Highway 821 slopes steeply upward. The site is rural and undeveloped, with the exception of the structures owned by the adjacent landowner. Based on the fact that this stretch of the Yakima River is a Blue Ribbon trout stream, WDFW does not foresee that the proposed transfer of ownership to a fly-fishing resort will change the rural, recreational character of the site or its geological resources. Similarly, WDFW does not foresee that its new ownership of the three replacement parcels will have adverse impacts to their geological resources because the replacement parcels are being acquired for the purpose of providing public recreational opportunity on the existing landscapes. Two of the replacement sites gently slope to the Yakima River; the third site is wetlands and ponds. No development is planned for these three sites.

2. Air Quality, Floodplains/wetlands, Land/property values, Recreation Resources. Each of these environmental resources exists at the properties, but the impacts, if any, will be negligible because all of the properties' uses as recreation land will continue.

3. Sound, Water Quality/Quantity, Stream flow characteristics, Marine/estuarine, Circulation/transportation, Plant/animal/fish species, Unique ecosystems, Unique/important habitat, Invasive species, Accessibility, Aesthetics, Historical/cultural Resources, Socioeconomics, Minority/low-income populations, Energy resources, Agency/tribal land use, Contamination/hazardous substances, other environmental resources. The conversion site will become an opportunity for private recreation; the three replacement sites will become an opportunity for public recreation. The resources in this Section C are not applicable.

B. MANDATORY CRITERIA: If this LWCF proposal is approved, would it:

1. Have significant impacts on public health or safety? No.
2. Have significant impacts on natural resources? No.

3. Have highly controversial environmental ethics? No.
4. Have significant environmental effects? No.
5. Establish a precedent with respect to significant environmental effects? No.
6. Have cumulative significant environmental effects? No.
7. Have significant impacts on national historic places? No.
8. Have significant impacts on listed/proposed species? No.
9. Violate federal, state, local, or tribal environmental protection laws? No.
10. Have a high and adverse effect on low income or minority populations? No.
11. Limit access to ceremonial sacred sites? No.
12. Contribute to the spread of noxious weeds/invasive species? No.

Coordination and Consultation

The people who prepared the information for each of the four sites are as listed on the NPS environmental screening forms which are attached as Appendix 1:

1. Elyse Kane, Property & Acquisition Specialist 6, WDFW: B.S., University of California; J.D., Yale Law School; professional experience (26 years) in environmental law, real estate law, and public land management.
2. Leah Hendrix, Property & Acquisition Specialist 3, WDFW: professional experience as real estate agent, public lands agent, and public recreation site manager.

On September 8, 9, and 10, 2010, WDFW ran a notice of the proposed access site exchange in the Yakima Herald-Republic. WDFW also sent personal notices to each adjoining landowner in early September. The notices invited public comment between September 8 and October 15, 2010. No adverse comments were received.

In October 2010, the exchange was reviewed and approved in open public forum by the Washington Fish and Wildlife Commission and also by the Washington Recreation and Conservation Funding Board.

In January 2011, WDFW prepared the LWCF Proposal Description and Environmental Screening Form (Appendix 1).

In February 2011, RCO and WDFW contacted the Nez Perce Tribe, the Confederated Tribes of the Umatilla Indian Reservation, the Yakama Nation, and the Confederated Tribes of the Colville Reservation. The Washington Department of Archaeology & Historic Preservation required “EZ-1” Project Review Sheets for each property and a Historic Inventory Report for the converted property, and then determined that the properties involved in the conversion are not eligible for the National Register of Historic Places (Appendix 2). The only request for further information was from the Yakama Nation, which was with respect to the property between the highway and the river within the conversion parcel. In response, WDFW contracted for a cultural resource survey and report. The report states that nothing of cultural or historic significance was found on site.

Figures and Appendices

- Fig. 1 9.04-acre conversion property
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